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NOTIFICATION

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Dated, Trivandrum, 9th November 1961.

The following Bill together with the Statement of Objects and Reasons, the Financial Memorandum and Memorandum regarding delegated legislation is published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

D. TIRUMALAI IYENGAR,
Secretary,
Legislative Assembly.

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(L. A. Bill No. 24 of 1961)

THE KERALA HEREDITARY VILLAGE OFFICES (ABOLITION) BILL, 1961

A

BILL

to abolish hereditary village offices in the State of Kerala.

Preamble.—WHEREAS it is expedient in the public interest to abolish hereditary village offices and the emoluments appertaining thereto in the State of Kerala;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

1. *Short title and extent.*—(1) This Act may be called the Kerala Hereditary Village Offices (Abolition) Act, 1961.

(2) It extends to the whole of the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956).

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "appointed date" means the first day of September, 1961;

(b) "emoluments" means money salaries and all other kinds of remuneration granted or continued in respect of, or annexed to, any hereditary village office;

(c) "existing law relating to a hereditary village office" includes any enactment, rule, bye-law, regulation, order, notification, standing order or any other instrument or custom, usage or practice relating to a hereditary village office, which is in force immediately before the appointed date;

(d) "hereditary village office" means a village office to which emoluments have been attached and which is held under any existing law relating to a hereditary village office, for the performance of duties connected with the administration or collection of the revenue or with the maintenance of order or with the settlement of boundaries or other matter of civil administration of a village, whether the services originally appertaining to the office continue, or have ceased, to be performed or demanded and by whatsoever designation the office may be locally known;

(e) "holder of a hereditary village office" means a person holding a hereditary village office permanently or officiating in a permanent vacancy after a selection in accordance with the procedure in force immediately before the appointed date;

(f) "prescribed" means prescribed by rules made under this Act.

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3. *Abolition of hereditary village offices together with incidents thereof.*—Notwithstanding anything in any existing law relating to hereditary village offices or in any decree or order of court, with effect on and from the appointed date,—

(1) all hereditary village offices shall be, and are hereby, abolished;

(2) all incidents (including the right to hold office and to receive emoluments attached thereto, the right, if any, to customary fees or perquisites in money or in kind and the liability to render service) appertaining to the said village offices shall be and are hereby, extinguished.

4. *Power of District Collector to decide whether a person was the holder of a hereditary village office and appeal therefrom.*—(1) If any question arises as to whether a person was, immediately before the appointed date, the holder of a hereditary village office, the District Collector shall, after giving the parties affected an opportunity to be heard and after holding an enquiry, decide the question.

(2) Any person aggrieved by the decision of the District Collector under sub-section (1) may, within sixty days of such decision, prefer an appeal to the Board of Revenue, and the decision of the Board of Revenue on such appeal shall be final.

5. *Relief to holders of village offices abolished under the Act.*—The holders of hereditary village offices shall, on the abolition of the offices under section 3, be either—

(i) appointed in suitable posts under the Government in accordance with such rules as may be prescribed; or

(ii) paid by way of solatium a gratuity in accordance with the rules made in that behalf.

6. *Power to take evidence on oath, etc.*—The District Collector and the Board of Revenue shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit.

7. *Enquiries and proceedings to be judicial proceedings.*—All enquiries and proceedings before the District Collector or the Board of Revenue under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

8. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure to be followed by the District Collector in determining questions as to whether a person was the holder of a hereditary village office or not;

(b) the procedure relating to appeals before the Board of Revenue;

(c) the qualifications and other conditions for appointment of holders of hereditary village offices in suitable posts under the Government;

(d) the principles of determining the gratuity payable under section 5, the form of application for the grant of such gratuity, the time within which and the authority to which such applications shall be made and appeals from orders on such applications;

(e) any other matter which has to be, or may be, prescribed under this Act.

(3) All rules made under this section shall be laid before the Legislative Assembly for a period of not less than fourteen days as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

9. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may by order make such provision or give such directions not inconsistent with the provisions of this Act as may appear to them to be necessary or expedient for the removal of the difficulty, and the order of the Government, in such cases, shall be final.

10. *Repeal and savings.*—(1) Any existing law relating to a hereditary village office in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), is hereby repealed:

Provided that the repeal shall not affect—

(a) any obligation or liability already incurred by the holder of a hereditary village office or other person before the appointed date;

(b) any proceeding or remedy in respect of such obligation or liability, and any such proceeding may be continued and any such remedy may be enforced as if this Act had not been passed.

(2) The Kerala Hereditary Village Offices (Abolition) Ordinance, 1961 (Ordinance No. 5 of 1961), is hereby repealed:

Provided that anything done or any action taken (including any directions given and orders and rules made) under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

The Government have reorganised the village establishments of 'Malabar District' as defined in section 5(2) of the States Reorganisation Act, 1956, on the pattern prevailing in the remaining areas of the State, with effect from 1st September, 1961. For this, it was necessary to abolish all hereditary village offices and to extinguish all incidents appertaining to these offices. On abolition, those holding these offices permanently or those officiating in permanent vacancies after regular selection were appointed in other suitable vacancies under the Government or made eligible for gratuity in accordance with the rules made in that behalf.

As the Legislative Assembly was not is session an Ordinance was promulgated by the Governor for the above purpose and it was brought into force on 1-9-1961. The Bill is intended to replace the Ordinance by an Act of the Legislature.

FINANCIAL MEMORANDUM

The reorganisation of the village establishments according to the provisions of the Bill will not result in any additional recurring expenditure now. But ultimately there may be additional expenditure after the drawal of a number of increments by those holders of hereditary village offices who are re-appointed under Government. Based on average cost, the additional expenditure is likely to be Rs. 2,87,000 per annum ultimately. Initially non-recurring expenditure will have to be incurred for the payment of gratuity to those who are retrenched. The expenditure on this account cannot be correctly estimated now but the Government have provided a sum of Rs. 5 lakhs in the budget of 1961-62 for this purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Government to make rules in respect of the matters specified therein. They relate *inter alia* to the procedure to be followed by the District Collector in determining questions as to whether a person was the holder of a hereditary village office or not, the procedure relating to appeals before the Board of Revenue, the principles of determining the gratuity payable under clause 5. The matters in respect of which rules may be made are of a routine and administrative character. Moreover, the rules shall be subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is thus of a normal character.

K. CHANDRASEKHARAN.